

**REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendments and following remarks.

**Claim Status**

Claims 1-6, 8-17 and 19-32 are pending in this application with claims 1, 8, 9, 19, 20, 23, 24, 25, 26, 27, 28, 30, and 32 being independent in form. Claims 1-6, 8-17 and 19-24 have been allowed and claims 25-32 have been rejected. Claims 28-32 are herein canceled without prejudice or disclaimer.

**Allowed Subject Matter**

Applicants gratefully acknowledge the allowance of claims 1-6, 8-17 and 19-24 over the prior art of record.

**Rejection of claims 25-27 under 35 U.S.C. § 103(a)**

Claims 25-27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Campbell et al. (GB 2,313,530) ("Campbell") in view of Moebius et al. (USP 5,751,907) ("Moebius") in further view of Itoh (USP 5,740,320).

While alleging that Campbell teaches or suggests all the remaining elements recited in claims 25-27, the Examiner admits that Campbell fails to teach penalty assigning which sorts phoneme data based upon a prescribed attribute and assigns a penalty on the basis of the sorting order. (see ¶6, pages 5-8 of the Office Action.) The Examiner, in modification of Campbell, turns to Moebius for part of the alleged missing teaching of assigning a value to the phoneme data based on a quality measure to rank the phoneme data based on corresponding boundary phonemes. This combination is still admittedly deficient in that Campbell and Moebius "do not specifically teach that the value of the predetermined attribute is an average value." (See Office Action, ¶6, page 7.) The Examiner turns to Itoh to allegedly provide this missing teaching.

The Examiner's conclusion regarding the above combinations is that each level of modification would have been obvious to one of ordinary skill in the art at the time the invention was made: first, to modify Campbell with the teachings of Moebius and secondly, to further modify Campbell/Moebius with Itoh.

Applicants traverse the stated rejection on several grounds.

First, Applicants respectfully submit that the combination proffered is not motivated in the prior art.

In forming the stated combination, the Examiner dissects the individual teachings of these references taking elements from each, and first forming a sub-combination which again needs to be modified to allegedly arrive at the claimed invention as recited in claims 25-27. However, the Examiner has not pointed to anything in Campbell (or elsewhere for that matter) that would invite such a dissection and combination of Moebius and/or Itoh in modification of its own teachings.

Such unmotivated dissection and combination is formed only with the benefit of the present invention as claimed and is clearly improper. Applicants respectfully submit that a *prima facie* case of obviousness has not been set forth and these rejections cannot stand.

Moreover, even *assuming arguendo* such combination were proper, the combination of Campbell with Moebius and/or Itoh does not teach or suggest the claimed invention.

The invention as recited in claim 25 is characterized by, in order to select an appropriate phoneme data from plural items of phoneme data, sorting the items of phoneme data based on a prescribed attribute, and assigning a penalty to each item of the phoneme data on the basis of the order of the sorting so that larger penalty is added to the phoneme whose order is near the smallest and biggest, and smaller penalty is added to the phonemes whose order is near the middle.

Moebius merely teaches assigning a value to each of the phonetic sequences based on a particular quality measure, ranking the phonetic sequences and selecting the phonetic sequence with the best ranking. That is, Moebius assigns a value in order to rank the phonetic sequences, and fails to teach assigning a value in order to rank the phonetic sequences.

Itoh teaches selecting a phonemic waveform that is nearest the centroid of LPC parameters of all waveform of the cluster. Itoh, however, fails to teach or suggest assigning of a penalty to the clusters.

Accordingly, none of the cited references teaches the above characteristics of the claimed invention.

Furthermore, the Examiner cites Itoh as a reference which teaches that the value of the predetermined attribute is an average value (page 7, lines 19-20 of the Office Action). However, the claimed invention has nothing to do with averaging value. Assigning a penalty based on sorted order is different from assigning a penalty based on an average value. For example, assuming that a set of phonemes have attribute values "1, 1, 2, 2, 3, 4, 4, 5, 5, 1000," if a penalty is assigned based on the average value, lower penalty would be assigned to the phoneme which has anomalous attribute value "1000". To the contrary, if the penalty is assigned based on sorted order as in the claimed invention, lower penalty is assigned to the phoneme which has the attribute value "3" or "4" and an appropriate result can be obtained.

The invention recited in claim 25 assigns a penalty to each item of the phoneme data on the basis of order obtained by sorting so that a larger penalty is added to the phoneme whose order is near the smallest and biggest, and smaller penalty is added to the phoneme whose order is near the middle. In the claimed invention, by virtue of this feature, phoneme data is selected without calculating averages of the attribute values.

As such, the invention as recited in claim 25 is believed patentable over Campbell, Moebius and Itoh because neither Campbell, Moebius nor Itoh taken alone or in combination, teach, disclose or suggest all of the limitations of claim 25.

As claims 26 and 27 are method and computer medium claims which correspond to apparatus claim 25, claims 26 and 27 are believed allowable for at least similar reasons as claim 25.

Claims 25-27 are therefore believed not anticipated by nor rendered obvious in view of Campbell, Moebius or Itoh, taken individually or in combination. Accordingly, claims 25-27 have not been amended and are believed to be allowable as they stand on the record. Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 25-27 under 35 U.S.C. § 103(a).

**Rejection of claims 28-32 under 35 U.S.C. § 103(a)**

Claims 28-32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Campbell in view of Itoh.

Applicants have herein canceled claims 28-32 without prejudice or disclaimer, rendering the rejections as to these claims moot. Applicants respectfully request that these rejections be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicants believe that all pending claims are hereby rendered allowable over the art of record taken alone or in combination and further submit that the application is thus placed in condition for allowance which action is earnestly requested.

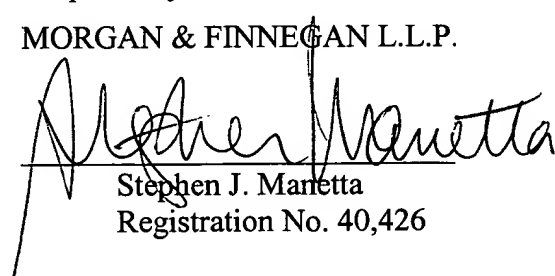
While no fees or extensions of time are believed necessary for this paper, should an extension of time be required to render the filing of this paper timely, such extension is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 1232-4563.

In the event that a telephone conference would facilitate prosecution of the instant application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,

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